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Irene Johnson
Secretary

State of New Jersey
Board of Regulatory Commissioners
CN 350
Trenton, NJ 08625-0350

Tel. (609) 777-3315
Fax (609) 777-3340

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JUN - 8 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

June 7, 1993

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Ms. Donna R. Searcy
Office of the Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: Reply Comments by the New Jersey Board of Regulatory
Commissioners - Docket No. RM-8221

Dear Ms. Searcy:

Enclosed please find an original and ten copies of the
reply comments in the above referenced docket. Please date
stamp one copy and return to the undersigned.

Sincerely,

Irene Johnson
Irene Johnson
Secretary

MPG:hb/mag

Enclosure

:1 copy by FAX

c Governor James Florio
Senator Bill Bradley
Senator Frank Lautenberg
Congressman William Hughes

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Before the
FCC Communications Commission
Washington, DC 20554

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JUN 8 1993

In the Matter of Amendments of)
Parts 32, 36, 61, 64 and 69 of)
the Commission's Rules to Establish)
and Implement Regulatory Procedures)
for Video Dialtone Service)

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DA 93-4637

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Reply Comments of the Staff of the New Jersey Board of
Regulatory Commissioners

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

The Staff of the New Jersey Board of Regulatory Commissioners (NJ Staff) submits these comments in response to comments made by parties pertaining to the Consumer Federation of America and the National Cable Television Association's petition filed with the Federal Communications Commission (FCC) for "... the commencement of rulemaking proceeding to establish cost allocation rules for video dialtone, and for the establishment of a Federal-State Joint Board to recommend procedures for separating costs."

Of primary importance to the issue of the provisioning of video dialtone (VDT) is the need for the local jurisdictions to be involved in the process in order to define issues of importance to local markets. In the case of the Section 214 applications filed by New Jersey Bell Telephone Company, NJ Staff recommends that these applications be given expedited review subject to any future rules developed to separate revenues and costs. We believe this to be an appropriate course of action for New Jersey because of the unique regulatory climate established therein by the New Jersey Board of Regulatory Commissioners. This is evident by a brief discussion of the events leading up to the decision made by the New Jersey Board of Regulatory Commissioners (Board).

In 1990, the Board commissioned an extensive study (NJ Telecommunications Infrastructure Study) that was aimed at identifying the relationship between telecommunications and New Jersey's future. The study determined that there is a direct causal relationship between an advanced telecommunications infrastructure and economic development. By investing in new and diverse communications services, including voice, data and video services positive benefits will accrue to all areas of our economy, including education, health and entertainment. The conclusions drawn by the study were the impetus for the Telecommunications Act of 1992 (the Act) and as a result, the New Jersey Legislature adopted revised rules for the telecommunications industry. Those rules were signed into law by Governor Florio in January of 1992. Under the Act, local exchange carriers could file for a form of regulation other than traditional rate base, rate of return. In March of 1992, New Jersey Bell Telephone Company filed for an alternative form of regulation. After notice and hearings, the Board modified the original plan filed by NJ Bell. As part of those modifications, of significance to these comments, are the following:

- 1) basic residential telephone service will be frozen at current levels through 1999;
- 2) any increases in rate regulated servcies will be frozen until 1996;
- 3) changes in rate regulated services will be subject to changes in the GNP-PI indicator less a 2% productivity offset and;
- 4) NJ Bell would accelerate the deployment of technology.

As evident by these enumerated elements plus others, the Board has taken substantial steps to ensure that New Jersey ratepayers will not be required to pay for system upgrades. The sources for the funds needed to accelerate the deployment of technology will be derived from lower dividends, retained earnings, new services revenues, and new debt offerings. Clearly, the New Jersey Board of Regulatory Commissioners have addressed the heart of the very issue now before the FCC. New Jersey telephone ratepayers will not be subsidizing VDT as implied by some commentors.

We agree, however, that many of the unanswered questions relating to VDT should be addressed. Referral of the issue of separation procedures to a joint board to establish procedures is an advisable mechanism. We would not want to see this issue lost, however, in the joint board maze. If referred to a joint board, a definitive timeframe to resolve the issue must be set, one year should be more than enough time. Without a clear direction on how to proceed with advanced capabilities such as VDT, Local Exchange Carriers (LECs) may delay (or suspend) the upgrade of their networks undermining the future of an advanced telecommunications infrastructure. The NJ Staff believes that it is of paramount importance to allow the scheduled implementation of VDT service in New Jersey to go forward without delay in order to gain experience and insight. Furthermore, the implementation of VDT in New Jersey is ideal; since telephone ratepayers are protected, experience for others will be gained and technical issues resolved. It is only then that a reasonable conclusion can be drawn as to the most appropriate regulatory mechanism for that particular local jurisdiction. Moreover, any attempt to inhibit the development of a VDT system through delays can benefit no one but could substantially harm or inhibit economic recovery in our State. The success or failure of the VDT trials could bear heavily on other advanced network applications such as advanced education and health care services, featuring distance learning and remote medical diagnosis. The alternative regulation plan approved for New Jersey Bell and the network enhancements incorporated in the plan, places New Jersey at the forefront, and ready to receive the benefits, of advanced technology.

As noted earlier, because the regulatory climate in New Jersey differs substantially from other jurisdictions (setting rates utilizing an incentive regulation formula-based price

instead of traditional rate base, rate of return), historical concerns are not material to New Jersey. The "Rate Shock" that generally accompanies any large plant investment in a